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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/806,886      | 04/05/2001  | Rinko Katsuda        | AA352F              | 7733             |

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EXAMINER

DOUYON, LORNA M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1751

DATE MAILED: 10/04/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/806,886

Applicant(s)

KATSUDA ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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1. The references cited in the Search Report for PCT/US9821020 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action.

***Claim Rejections - 35 USC § 112***

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "especially" in line 1 renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 6 is indefinite because the Markush language in lines 1-2 is improper. In addition, the phrase "selected from the group consisting of" should be followed by "and" and not "or". It is suggested that "or" in line 2 be replaced with "and". It is also suggested that the Markush language of "polycarboxylic acids" be rewritten as a separate claim.

Claim 8 is indefinite because the proportions in line 2 lack "by weight" or otherwise.

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Claim 9 lacks support for “delayed-release foaming component” with respect to claim 2, ultimately claim 1, which refers to “a foaming component” and a “delayed-release foam suppressing component”.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Akay et al. (WO 93/01269), hereinafter “Akay”.

Akay teaches antifoam particles comprising silicone antifoam (X2-3302) on a cellulose carrier (Avicel PH101, particle size = 50  $\mu$ m) coated with citric acid, sodium carbonate and PEG (see Example 6C under Table 5 on page 32). See also Example 7 on pages 33-34. The antifoam particles will normally be admixed into a detergent product which includes detergent active and detergency builder (see page 14, lines 1-12). Akay also teaches the use of the detergent product in washing machines (see page 1, lines 10-11). Akay teaches the limitations of the instant claims. Hence, Akay anticipates the claims.

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5. Claims 1-6, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Steventon (WO 97/17939).

Steventon teaches a spray dried granular powder comprising from about 50% to about 99% of a water soluble carrier, from about 1% to about 50% of a hydrophobic silicone oil dispersed within the carrier, wherein the spray-dried powder has a volume average particle size in the range from about 20  $\mu\text{m}$  to about 500  $\mu\text{m}$ , the powder being prepared by spray-drying an aqueous dispersion of the silicone oil and the water-soluble carrier, wherein the silicone oil is present in the dispersion in the form of discrete droplets having a volume average droplet size in the range from about 0.5  $\mu\text{m}$  to about 20  $\mu\text{m}$  (see abstract). In Examples IV to VII, Steventon teaches a mixture of granulated components before tableting, the granulated components comprising the spray-dried powder comprising cetyl dimethicone, dimethicone copolyol, starch and sorbitol; an effervescent generator comprising malic acid or tartaric acid and sodium carbonate and sodium bicarbonate; and other ingredients like bleach precursor (see pages 16-18). Steventon teaches the limitations of the instant claims. Hence, Steventon anticipates the claims.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steventon as applied to the above claims.

Steventon teaches the features as described above. In addition, Steventon teaches that the spray-dried powders have a wide range of application, one of which is to deliver antifoam activity to detergent compositions (see page 9, lines 27-29), such as laundry detergents. Steventon, however, fails to specifically disclose a method of cleaning fabrics which comprises contacting the fabrics with a granular detergent composition containing the spray-dried powders (foam suppressor) and the effervescent generator.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the detergent composition of Steventon which comprises spray-dried powder containing foam suppressors and effervescent generator for laundering fabrics because Steventon specifically desires his composition to have a wide range of application which includes laundry detergent compositions.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steventon as applied to the above claims, and further in view of Baginski et al. (US Patent No. 4,652,392), hereinafter "Baginski".

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Steventon teaches the features as described above. Steventon, however, fails to disclose the carrier being polyethylene glycol with 0.2% to 15% fatty acid having from 10 to 30 carbon atoms.

Baginski teaches a similar suds controlling agent which comprises a silicone suds controlling agent which is incorporated in a water-soluble or water-dispersible, substantially nonsurface active, detergent-impermeable and non-hygroscopic carrier material which is preferably a mixture of from about 0.2% to about 15% of fatty acids containing from about 12 to about 30 carbon atoms and the balance PEG (see col. 2, lines 34-45; col. 6, lines 4-10). Baginski also teaches that the suds control agent provides a stable composition which provides good suds control even after storage (see col. 2, lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the carrier of Steventon with the carrier of Baginski which comprises PEG and 0.2 to 15% fatty acids because said carrier provides a stable composition which provides good suds control even after storage as taught by Baginski.

9. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes  
(703) 872-9310- for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

October 1, 2002

*Lorna M. Douyon*  
Lorna M. Douyon  
Primary Examiner  
Art Unit 1751